Financing and Development of Infrastructure Cont’d

- Exactions
  - Nollan (last week)
  - Dolan v. City of Tigard (dedication)
- Impact Fees
  - Ehrlich v. City of Culvert City
  - Volusia County v. Aberdeen at Ormond Beach, L. P.
- Assessment Districts
  - Strauss v. Township of Holmdel

Dolan v. City of Tigard,
Dolan’s Plumbing & Electric Supply Store
Dolan cont’d
Fanno Creek

Exactions/Dedications

• Nollan: “essential nexus”
• “Rough proportionality”
  • No precise mathematical calculation required.
  • Individualized determination.
Dolan cont’d

• Private v. public greenway: bundle of sticks
• Dissent
• Majority’s response to the dissent: burden of proof
• Application of Nollan and Dolan?

Dolan cont’d

“Roughly Proportional” to WHAT?
• The additional social costs attributable to the proposed development,
• the fair market value of the property acquired by the exaction, or
• the reduction of social costs attributable to the exaction.

**Impact Fees**

Fees levied by government against new development to acquire or recover some or all of the cost of providing public infrastructure needed to support the new development that is paying the fees.

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**Ehrlich v. City of Culver City cont’d**

**Subject to Dolan?**

- Recreation Mitigation Fees
- Art in Public Places Fees
- Legislative Fees v. Adjudicative Fees
**Volusia County v. Aberdeen at Ormond Beach, L.P., 760 So. 2d 126 (Fla. 2000), p. 167**

**Impact or User Fees**

- Fair Housing Act
- Dual Nexus Test
  - *St. John’s County v. Northeast Florida Builders Ass’n Inc.*
  - *Hollywood v. Broward County*

**Volusia County v. Aberdeen at Ormond Beach, L.P. cont’d**

**General Requirements for Impact Fees**

- Uniformity
- Earmarked
- Timely expended or refunded

Assessment Districts

- Bonds to finance sewer system
- Rational Basis
- Equal Protection

Strauss v. Township of Holmdel cont’d

Assessment Districts of All Kinds

- Involuntary Special Assessment
- Traditional Special Assessment
- Business Improvement
Strauss v. Township of Holmdel cont’d

Involuntary Special Assessment Districts

• Involuntary for property owner.
• Municipality decides.
• Paid over time – 10 years, 20 years.

Traditional Special Assessment Districts

• Voluntary for property owner.
• Owners petition municipality for establishment of district.
• Due annually for each parcel no matter the actual pace of development (usually with property taxes).
• All properties that are benefited are equitably assessed for the benefit enjoyed.
Strauss v. Township of Holmdel cont’d

Business Improvement Districts

• Commercial revitalization.
• Public Improvement Districts (PIDs) in Texas.
• Safety, services, and aesthetics.